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February 21, 2003

VIA FACSIMILE & FEDERAL EXPRESS

Honorable Cheryl L. Pollak
Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: NAACP v. A.A. Arms, Inc., et al.
Docket No.: CV-99-3999 (JBW)

Dear Magistrate Judge Pollak:

As promised, we are respectfully submitting for the Court's review copies of excerpts from the depositions of our clients, who were also involved in the Boston litigation, where Boston incidents were disclosed.

Respectfully submitted,

RENZULLI, PISCIOTTI & RENZULLI, LLP

/s Leonard Rosenbaum

Leonard Rosenbaum

cc: Elisa Barnes, Esq.

Defense Counsel

1

2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

3 -----x
4 NATIONAL ASSOCIATION FOR THE
5 ADVANCEMENT OF COLORED PEOPLE, 99 CV 3999 (JBW)
NAACP, 99 CV 7037 (JBW)

5 Plaintiff,

6 -against-

7 AMERICAN ARMS, et al.,
8 ACUSPORT CORP., et al.,

9 Defendant.

10 -----x
11 July 19, 2002
12 9:28 a.m. - 3:32 p.m.

11 CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER
12

13 Videotaped Deposition of PAUL JANNUZZO,
14 taken by Plaintiff, at the offices of Renzulli,
15 Pisciotti & Renzulli, LLP, 300 East 42nd Street,
16 New York, New York, before Ellen Marie Neary
17 Gumpel, a Certified Shorthand Reporter,
18 Registered Professional Reporter and Notary
19 Public within and for the State of New York.

20

21

22 DAVID FELDMAN & ASSOCIATES (USA)

23 575 Madison Avenue, 10th Floor

24 New York, New York 10022

25 (212) 921-0771 Fax: (212) 921-0718

1 PAUL JANNUZZO

5 A. No, ma'am.

6 Q. Is that information contained in any
7 of the documents that the stocking dealer is
8 required to submit to you?

9 A. No, ma'am.

10 Q. Did you ever consider asking or
11 having your sales staff review the number of
12 trace requests received by a dealer as one of the
13 criteria as to whether or not that dealer should
14 become one of your stocking dealers?

15 A. No, ma'am.

16 Q. And you never considered it?

17 A. No.

18 Q. Do you know what a -- you, you know
19 what a trace request is?

20 A. Yes, ma'am.

21 Q. You get them at Glock, correct?

22 A. Yes, we do.

23 Q. And you know that they're -- that
24 they are requests by BATF for information about
25 crime guns; is that fair?

1 PAUL JANNUZZO

2 A. No. It's not a --

3 MR. JOHN RENZULLI: Objection to
4 form.

5 A. I don't think it's even close. As a
6 matter of fact, I think it's almost a 100 percent
7 misrepresentation of what they are.

8 Q. Okay.

9 Tell me what they are.

10 A. They are a request for a trace on a
11 pistol or a handgun or a rifle, I guess depending
12 on who you are. But if nothing else, we
13 certainly know from these municipal lawsuits they
14 are sure as heck not crime guns all of them.

15 Q. And why do you say that?

16 A. Well, in Boston, I don't recall off
17 the top of my head how many guns we had that were
18 traced as a result of shooting a dog or a police
19 officer losing momentary control of it. I know
20 from the ATF's own documents that they are --
21 these requests are guns that may be crime guns
22 or -- are crime guns or may be crime guns. I
23 know from -- I can't think of his name right now,
24 but actually, I think he is one of your witnesses
25 who filed an affidavit sometime ago talking about

1 PAUL JANNUZZO
2 basically in 97 percent of these come from local
3 law enforcement and that there is no requirement
4 that they note the reason for the request. I
5 know that ATF says that sometimes it's just a gun
6 that is suspected of being a crime gun. I know
7 the overwhelming majority of them have noted on
8 their -- what is it, the category is firearms
9 defense, which in my mind is probably not a crime
10 gun if you define a crime gun as a gun used in
11 the commission of a crime. That could be
12 discharging a weapon within city limits.

13 Q. It could also be trafficking,
14 couldn't it be, Mr. Jannuzzo?

15 A. It could be, but you know --

16 Q. It could be selling it to a minor,
17 couldn't it be?

18 A. Could I finish my -- could I finish
19 my question -- my answer?

20 MR. JOHN RENZULLI: Finish up;
21 finish up.

22 A. It, also -- you know, in the
23 documents we've received from both Boston and
24 California, not a single -- no. Strike that.

25 Out of all the instances listed from

1 PAUL JANNUZZO
2 the seven municipalities in California and the
3 City of Boston, there was one trafficking
4 incidence, incident by a boy -- and it was a
5 wicked Irish name -- Sean Tooney, who was caught,
6 arrested, prosecuted and put in jail.

12 But out of those eight
13 municipalities, who have accused us of these
14 negligent distribution practices, there was one
15 of their employees and one other person that were
16 involved in some sort of unlawful purchase. And
17 frankly, it was an unlawful purchase on their
18 side, especially when a police officer walks into
19 a store, I don't know how a dealer is supposed to
20 know that that sale shouldn't be consummated.

21 MS. BARNES: Could you do me a favor
22 and read me back his answer or just let me look
23 at it on the screen.

24 (Discussion off the record.)

150

1 PAUL JANNUZZO

2 approximately 12:36 and we're going off record.

3 (Recess: 12:36 p.m. to 12:52 p.m.)

4 VIDEO TECHNICIAN: The time is now

5 approximately 12:52; we're back on record.

6 Q. Mr. Jannuzzo, you made reference to
7 two instances of a -- of evidence developed or
8 presented in cases in Boston and in the
9 California cases?

10 A. Yes, ma'am.

11 Q. I'd like to just go through that
12 with -- for a second with you.

13 A. Sure.

14 Q. Did you -- have you yourself ever
15 reviewed the compilations obtained from BATF of
16 firearms that were traced in crime?

17 MR. JOHN RENZULLI: Objection as to
18 form.

19 You may answer.

20 A. I don't understand the question.

21 Q. Okay.

22 Have you ever -- BATF provides --
23 well, let me strike that.

24 Do you -- are you aware of a thing
25 or a document called the BATF Firearms Trace

1 PAUL JANNUZZO

2 A. I don't know.

3 Q. More than five in any one of those
4 years?

5 A. Doubtful.

6 Q. More than two in any one of those
7 years?

8 A. You, you just asked me specifically
9 how many times. I told you each time that I
10 don't know. I still don't know.

11 Q. Okay.

12 So now I want to go back to your
13 statement --

14 A. Uh-huh.

15 Q. -- that you made with regard to
16 information that you say came out of the Boston
17 and the California lawsuits.

18 A. Okay.

19 Q. What I would like to know is: Have
20 you seen paper compilations of the crimes
21 attached to firearms traced in connection with
22 either the Boston or the California lawsuits?

23 A. I don't know if I'd seen
24 compilations. I know I've seen investigatory
25 reports, which, to me, just simply pointed out

1 PAUL JANNUZZO

2 the fact that the traces by themselves don't tell
3 you a lot until you know what the underlying
4 investigation was.

5 (Stacy Deere joined the deposition
6 telephonically.)

7 Q. Okay.

8 What are these investigatory reports
9 that you've seen?

10 A. They are exactly as they are
11 indicated by their title, investigatory reports.

12 Q. By whom?

13 A. By the agency that was investigating
14 the gun discharge, the transaction or whatever it
15 may be.

16 Q. Okay.

17 And are you talk -- let's take first
18 the City of Boston.

19 A. Okay.

20 Q. Are you talking about one
21 investigation report or more than one
22 investigation report?

23 A. More than one.

24 Q. How many are you talking about?

25 A. I don't know, Ms. Barnes.

1 PAUL JANNUZZO

2 Q. How many have you seen with regard
3 to the number of Glock firearms maintained in the
4 Firearms Trace Database and presented in the
5 connection of the City of Boston's lawsuit?

6 A. I didn't know a second ago; I still
7 don't.

8 Q. Is it -- so it's, it's more than one
9 though?

10 A. Yes, ma'am.

11 Q. Is it more than ten?

12 A. It's however many they supplied us,
13 ma'am.

14 Q. How many was that?

15 A. You'll be surprised to hear this,
16 but I still don't know.

17 Q. Well, was it more than a thousand?

18 A. No. It definitely was not more than
19 a thousand.

20 Q. Was it more than a hundred?

21 A. I don't believe so. No, ma'am.

22 Q. Was it a stack of paper that took
23 you more than four hours to read through?

24 A. I don't know.

25 Q. How long did you read it?

1 PAUL JANNUZZO

2 A. I don't know.

3 Q. Did you read it in an afternoon?

4 A. I don't know.

5 Q. Do you think it was under ten
6 investigation reports?

7 A. I don't think so, no because -- no.

8 I don't think so.

9 Q. Was it by a mem -- was any of these
10 investigation reports that you say you read
11 created by a member of the Boston Police force?

12 A. I believe the majority of them were.

13 Q. And were they one page or more than
14 one page?

15 A. I guess it depends on how thorough
16 the investigation was and I don't recall.

17 Q. I'm not asking you for your
18 evaluation of the, of the police work by the City
19 of Boston.

20 A. And you didn't get it.

21 Q. I'm merely asking you a question --

22 A. And you didn't get it.

23 Q. -- as to what you saw --

24 A. And I answered it for you.

25 Q. -- and you've made statements here

1 PAUL JANNUZZO

2 under oath that only a certain number of the guns
3 recovered in Boston dealt with any crime. And
4 I'm trying --

5 A. You know, Ms. Barnes --

6 Q. -- to find out what the basis of
7 that information is; that's my sole object here.

8 A. Okay.

9 Then I want you to understand --

10 MR. JOHN RENZULLI: Objection as to
11 form.

12 A. Since you misrepresented my
13 testimony, why don't I try to clear that up,
14 first.

15 What I didn't -- what I said was not
16 that. What I said was that those investigatory
17 reports and actually the requests themselves or
18 the incidents themselves upon which the requests
19 were based make it patently clear that every
20 trace request that comes in does not indicate a
21 crime gun. Some of those guns were fired in the
22 line of duty by police officers and they were
23 traced.

24 Q. How many?

25 A. That was the point that starts --

1 PAUL JANNUZZO

2 Q. How many?

3 A. I don't know.

4 Q. How many were there?

5 A. Okay.

6 Which part of "I don't know" don't
7 you get?

10 Q. You have made the statement that a
11 number of guns in the trace database do not
12 relate to crime.

13 A. Right.

14 Q. And I want to know how many that
15 number is. Either, either that or you can tell
16 me what percentage. And I want to know very
17 precisely the basis of the information on which
18 you are making that statement.

19 A. You know this is so disingenuous
20 because you know the exact same thing, unless you
21 are purposefully blind to the information in your
22 own possession. I don't know the percentage. I
23 do not know the number.

24 Q. Do you --

A. You can ask me 50 times and I still

1 PAUL JANNUZZO

2 won't know.

3 Q. Do you have the documents in your
4 possession by which you could provide me with the
5 information as to the number?

6 MR. JOHN RENZULLI: Those documents
7 are -- for the record are privileged and
8 confidential pursuant to a protective order in
9 Boston.

10 Q. Do you have them in your possession?

11 A. As I sit here today, no, ma'am.

12 Q. Do you have them in Smyrna, Georgia?

13 A. I don't know if I still do or not.

14 We're supposed to be giving that stuff within 30
15 days back to the City of Boston. And I don't
16 know if it's been returned yet.

17 Q. Okay.

18 Let's take California.

19 A. Okay.

20 Q. How many incidents do you say
21 occurred in the California litigation?

22 And by that, I mean any of the
23 cities in California that are participating in
24 that, that do not involve crime guns.

25 A. I do not know.

1 PAUL JANNUZZO

2 Q. Is it more than one?

3 A. Yes.

4 Q. And --

5 A. Ms. Barnes, here is what I recall
6 from the Boston cases, if that's okay.

7 There were two that involved the
8 distribution schema, the distribution practices.
9 And those two were actually people who more or
10 less duped the dealer.

11 You see, Boston much like this case
12 alleged negligent distribution. I am not here to
13 solve crime in society, unwed mothers or drug
14 use. We're talking about what supposedly is an
15 allegation of negligent distribution. And you
16 asked me about the trace database. And this all
17 started as to why our salesmen aren't reviewing
18 traces in stores. The point I was making is
19 there is no use in them reviewing traces in
20 stores because it doesn't tell them anything.

21 And, in fact, according to the BATF
22 and Senator Schumer, the overwhelming majority, I
23 believe is the language that Senator Schumer used
24 of FFL holders are honest, law-abiding users and
25 sellers and distributors of firearms and that it

1 PAUL JANNUZZO

2 was as low as 1 percent I believe he called them
3 bad apples or maybe he said 1.2 percent and the
4 BATF report that I'm thinking of said 1 percent.

5 But regardless, I thought the case
6 was about negligent distribution, not crime in
7 society.

8 Q. Have you spoken with Senator
9 Schumer?

10 A. No, ma'am.

11 Q. Then where did you get your
12 information that you're attributing to Senator
13 Schumer?

14 A. From the report that he issued when
15 he did this bad apple report.

16 Q. And what is that report called?

17 A. I just referred to it as the bad
18 apple report; that the only thing I know it by.

19 Q. And do you know when that report was
20 prepared?

21 A. Two years ago.

22 Q. Do you know the date of the report?

23 A. No, I don't know the time and date
24 it was issued either or what kind of computer it
25 was generated on.

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
3 99 Civ. 3999 (JBW)
3 99 Civ. 7037 (JBW)
4
5 NATIONAL ASSOCIATION FOR THE :
5 ADVANCEMENT OF COLORED PEOPLE, :
6 et al., :
6 Plaintiffs, : CONFIDENTIAL
7 -vs- :
7 AMERICAN ARMS, et al., :
8 : :
8 - - - - -

9

10

11 Videotaped deposition of GEORGE T. SODINI
12 CONFIDENTIAL - FOR ATTORNEYS' EYES ONLY
13 TRANSCRIPT of testimony as taken by and
14 before MARGE TEILHABER, a Certified Shorthand
15 Reporter (License No. XI00856) and Notary Public of
16 the States of New York and New Jersey, at the
17 offices of LAW OFFICE OF ELISA BARNES, LLC,
18 111 Broadway, 4th floor, New York, New York, on
19 Thursday, July 25, 2002, commencing at 4:49 in the
20 afternoon.

21

22 DAVID FELDMAN & ASSOCIATES (USA)
23 575 Madison Avenue, 10th Floor
24 New York, New York 10022
25 (212) 921-0771 FAX: (212) 921-0718

1 indication on the request itself that you're being
2 asked to provide information in connection with a
3 criminal investigation?

4 MR. RENZULLI: Object as to form.

5 A. I think on the top of the trace, doesn't it
6 say this could be -- I haven't looked at one. If
7 you got one, it says something about this gun, this
8 request, this trace request is about a crime, it
9 could be a crime or something. But it's just --

10 MS. BARNES: Could you mark this
11 Import Sports-5?

12 (Exhibit Import Sports-5, Bureau
13 of Alcohol, Tobacco and Firearms, National Tracing
14 Center, marked for identification.)

15 Q. Could you look at Import Sports 5
16 and tell me- if you've ever seen one that's not
17 filled out in the same way obviously that this one
18 is filled out but have you ever seen this basic
19 form?

20 A. I've seen this form and I've seen other
21 forms, like I mentioned before, the one that they
22 come in by mail. It's a different type of form
23 than this but this is the general form we receive.

24 Q. And it's a fax?

25 A. It's a fax form.

1 Q. What does it say at the top under
2 the heading ATF? What does the next line say?

3 A. II Information requested below is needed to
4 assist in a criminal investigation. Please return
5 this completed form to the ATF within 24 hours of
6 receipt."

7 Q. Do you have some information that
8 any given trace that you receive is not part of a
9 criminal investigation?

10 A. Yes, I do. As I mentioned to you before,
11 the traces that we received regarding the Boston
12 case.

13 Q. How did you find out what the
14 underlying action or issues were in those two
15 instances?

16 A. It was on a police report.

17 Q. Oh, you got a copy of the police
18 report?

19 A. Yes, in the case.

20 Q. Any other way?

21 A. No.

22 Q. Mr. Sodini, do you ever advertise?
23 I'm sorry. Strike that.

24 Do you know what a spiff is?

25 A. Yes.

1

2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 99 Civ. 3999 (JBW)
5 99 Civ. 7037 (JBW)

6 NATIONAL ASSOCIATION FOR THE :
7 ADVANCEMENT OF COLORED PEOPLE, :
8 et al., :
9 Plaintiffs, CONFIDENTIAL
10 - vs - :
11 AMERICAN ARMS, et al., :
12 - - - - -

9

10 Videotaped deposition of GEORGE KELLGREN,
11 taken in the above-entitled matter before
12 ILONA LUPOWITZ, a Certified Shorthand Reporter
13 and Notary Public, taken at the offices of
14 Renzulli, Pisciotti & Renzulli, 300 East 42nd
15 Street, New York, New York, on Friday, August
16 9, 2002, commencing at 9:41 a.m.

17

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22 DAVID FELDMAN & ASSOCIATES (USA)

23 575 Madison Avenue, 10th Floor

24 New York, New York 10022

25 (212) 921-0771 FAX: (212) 921-0718

1 GEORGE KELLGREN

2 A. Not really.

3 Q. Can you tell me why?

4 A. We consider that just to be a law
5 enforcement tool. We do not know how those
6 guns were recovered. We do not know if they
7 were involved in a crime at all. We actually
8 have had cases with Kel-Tec guns where we have
9 seen the police report. It was in Boston and
10 in California, where the guns were traced, and
11 they were actually not involved in -- in -- in
12 a gun crime. There was one that was found in a
13 domestic dispute, one was used by a licensed
14 carrier, and one was found on the playground.
15 But none of them were, actually -- did show
16 that they were not properly distributed.

17 So just seeing those -- the
18 Kel-Tecs we know about, that has made us to
19 draw the conclusion that for us, for Kel-Tec as
20 a manufacturer, you cannot use that
21 information. Because it -- it's the raw data
22 from the ATF that they use for investigating
23 purposes.

24 Q. I don't know the particulars of
25 what you've seen in any police reports from any

1 GEORGE KELLGREN

2 litigation. But, Mr. Kellgren, do you think
3 that a gun left on a playground was just
4 dropped?

5 A. Yes.

6 Q. Oh, you do.

7 A. It could happen.

8 Q. Whether or not you think it could
9 happen, do you have any informed basis in which
10 to say that the presence of a gun on a
11 playground is necessarily a holy, non-criminal
12 event?

13 A. It is -- of course, it is -- it
14 does not show yet that the gun has been used in
15 a crime. But to leave it on a playground is
16 highly irresponsible. Unless it was dropped
17 there. It was not on purpose.

18 MR. RENZULLI: Highly?

19 THE WITNESS: Irresponsible.

20 Q. And you've, certainly, heard of
21 instances where people fleeing from crimes or
22 from the commission of a crime or from a crime
23 scene have been known to toss a gun away from
24 their person so that they are not recovered
25 with the firearm on their person. You have

1 GEORGE KELLGREN

2 heard of those instances.

3 A. That could happen, yes.

4 Q. And those instances happen, they

5 are thrown in garbage cans.

6 A. Um-hum.

7 Q. In b

8 A. Yes.

9 Q. And the recovery of those gu-

10 would be consider

11 A. Yes.

12 Q. And -- but those guns are,

is neverness, gains en-

II. IN A CRIMINAL MATTER.

1 GEORGE KELLGREN

2 Q. And what was the other example you
3 gave?

4 A. It was a licensed carrier that was
5 brandishing the gun. It was traced and given
6 back to the licensee.

7 Q. Brandishing.

8 A. Brandishing.

9 Q. So somebody thought that there was
10 some threat involved.

11 A. He got the gun back. So,
12 apparently, there was no -- nothing criminal --

13 Q. And those are three examples out of
14 how many police reports did you see in the
15 California litigation?

16 A. It -- I don't know the exact
17 number.

18 Q. Was it more than three?

19 A. Yes, it was more than three.

20 Q. Was it more than 20?

21 A. No, I don't -- it was less than
22 20. But, also there, it was nothing that I can
23 remember that showed that a crime was submitted
24 with a gun.

25 Q. So is your position that you don't

1

2 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

3 -----x
4 NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
et al.,

5

6 Plaintiffs, 99 Civ. 3999 (JBW)
99 Civ. 7037 (JBW)

7 -vs-

8

9 AMERICAN ARMS, et al.,
Defendants.

10 -----x

11

12 Videotaped Deposition of LARRY NELSON,
13 taken by Plaintiff, on August 15, 2002 at 9:21
14 a.m. at the offices of RENZULLI, PISCIOTTI &
15 RENZULLI, 300 E. 42nd Street, New York, New
16 York, by and before Marc Brody, a Notary
17 Public and Certified Shorthand Reporter.

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22 DAVID FELDMAN & ASSOCIATES (USA)

23 575 Madison Avenue, 10th Floor

24 New York, New York 10022

25 (212) 921-0771 Fax: (212) 921-0718

1 LARRY NELSON

2 attempt to get information to either verify
3 or refute Senator Schumer's report?

4 A No.

5 MS. BARNES: Nothing further, Mr.

6 Nelson. Thank you.

7 A Thank you.

8

9 CROSS EXAMINATION BY MR. RENZULLI:

10

11 Q As to the discussion had on the
12 Schummer report, do you recall if anyone
13 from Browning sent a letter to Schummer's
14 office?

21 Q Have you. Do you have any
22 recollection in the popular press as to
23 whether Schummer and his office stated that
24 they had made a mistake that you were a
25 manufacturer and not a dealer and should

1 LARRY NELSON

2 case, California or Boston. Was Browning
3 was sued in those cases?

4 A Yes.

5 Q The Boston case is no longer,
6 right?

7 A That is correct.

8 Q In that case did you receive
9 documents or police reports concerning
10 Browning guns, sir?

11 A Yes.

12 Q Did you have an opportunity to
13 look through those police reports, sir?

14 A Yes.

15 Q And in those police reports
16 there were references to guns that were
17 traced, Browning guns. Is that correct?

18 A Yes.

19 Q I understand some of these
20 traces or majority or large majority you
21 couldn't read the serial numbers?

22 A Yes, There was quite a few,
23 actually.

24 Q The underlying data that you
25 reviewed in these police reports. let me

1 LARRY NELSON

2 ask you, were all these guns involved in
3 crimes?

4 A No.

5 Q Were all these guns crime guns?

6 A No.

7 Q Where did you get that
8 information from?

9 A Well, a lot of them come by any
10 of -- in fact, one of them suggested that
11 one of the guns was actually in a police
12 station. It was behind, it was an auto
13 five, behind a couch or something.

14 There's a policeofficer shot and
15 discharged the gun as I recall and in one
16 instance and that was traced. Guns that
17 were stolen. Somebody left one in a sack in
18 a park or something. There was a number
19 that were -- That had no affiliation or
20 association with Browning whatsoever.

21 Q The criminal investigation
22 referred to at the top of the trace request
23 that you received could mean a criminal
24 investigation not associated with any
25 particular gun. Is that correct?

1 LARRY NELSON

2 A Yes.

3 Q That you got from the
4 underlying documentation, correct

5 A Yes.

6 Q Not in numbers or a database or
7 a trace request form. Is that correct?

8 A Yes.

9 Q Trace requests form doesn't
10 tell you why a gun is being traced, does
11 it?

12 A No. It doesn't.

13 Q Isn't it true, sir, after 1995
14 and 1996 we have what's called
15 comprehensive tracing?

16 A I understand that.

17 Q Traces all guns?

18 A Everything.

19 Q In terms of handguns, does
20 Browning essentially sell all the produc
21 that is made for it?

22 A Yes.

23 Q Would that be for the operative
24 period 1996 through 2000?

25 A Yes.